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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
)  
Gilles RUBINSTENN et al. ) Group Art Unit: 3628  
)  
Application No.: 10/024,496 ) Examiner: Igor N. BORISSOV  
)  
Filed: December 21, 2001 )  
)  
For: BEAUTY ADVISORY SYSTEM ) Confirmation No.: 4463  
AND METHOD )

**Attention: Mail Stop Appeal Brief-Patents**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**APPEAL BRIEF UNDER BOARD RULE § 41.37**

In support of the *Notice of Appeal* filed July 23, 2009, and further to Board Rule 41.37, Appellants present this brief and enclose herewith a check for the fee of \$40.00 required under 37 C.F.R. § 1.17(c). An appeal brief fee of \$500 was previously paid in this application on February 3, 2006, but the appeal was not completed. The previous appeal brief fee of \$500 is applied to the current appeal brief fee of \$540. Appellants enclose the remaining difference of \$40.

This Appeal responds to the January 29, 2009, final rejection of claims 1–50.

If any additional fees are required or if the enclosed payment is insufficient, Appellants request that the required fees be charged to Deposit Account No. 06-0916.

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a.	Neither <i>Maloney</i> nor <i>Fox</i> , nor any combination thereof, teaches or suggests, <i>inter alia</i> , generating at least one recommendation for use of at least one cosmetic product based on at least one of personal information, which includes demographic information reflecting a geographic area location of a subject, and local information, which is based on demographic information and historical information associated with a geographic area.....	30
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**I. REAL PARTY IN INTEREST**

The real party in interest is L'OREAL SA, the assignee of the entire right, title, and interest in the application.

## **II. RELATED APPEALS AND INTERFERENCES**

There are currently no other appeals or interferences, of which Appellants, Appellants' legal representative, or assignee are aware, that may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**III. STATUS OF CLAIMS**

Claims 1–50 have been finally rejected and are subject to this appeal.

#### IV. STATUS OF AMENDMENTS

Subsequent to the *Final Office Action* of January 29, 2009, the Examiner has considered and entered an *Amendment After Final* filed by Appellants on April 9, 2009. See the *Advisory Action* mailed June 15, 2009, at item 7, indicating that the claim amendments in the *Amendment After Final* filed on April 9, 2009, will be entered for purposes of appeal.



## **V. SUMMARY OF CLAIMED SUBJECT MATTER**

### **A. Independent Claim 1**

The subject matter set forth in independent claim 1 relates to a method for providing beauty advice. The method comprises obtaining, by a computer system, personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19); determining local information based on the demographic information (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on at least the personal information and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17); and presenting the at least one recommendation (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21).

### **B. Independent Claim 25**

The subject matter set forth in independent claim 25 relates to a method for providing beauty advice to a subject. The method comprises obtaining, by a computer system, personal information about the subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19); generating a list of a plurality of cosmetic products for the subject (Fig. 4, 410; p. 21, ll. 21-24); receiving from the subject a request for cosmetic advice (p. 5, ll. 19-21; p. 14, ll.

17-19; p. 32, l. 12 to p. 33, l. 5); accessing local information for the geographic area (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); and generating, by the computer system, at least one recommendation for use of at least one cosmetic product on the list, the at least one recommendation being a function of the personal information of the subject and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17).

### **C. Independent Claim 27**

The subject matter set forth in independent claim 27 relates to a system for providing beauty advice. The system comprises memory (Fig. 8, 806; p. 16, l. 1 to p. 17, l. 4) for storing personal information about a subject, the personal information including at least demographic information about the subject, the demographic information including a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19); memory (Fig. 8, 806; p. 16, l. 1 to p. 17, l. 4) for storing a program that accesses local information for the geographic area (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); and generates at least one recommendation for use of at least one cosmetic product, the at least one recommendation being a function of the personal information of the subject and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17); and a processor that runs the program (Fig. 8, 802; p. 14, ll. 5-9; p. 15, l. 3 to p. 17, l. 13).

**D. Independent Claim 30**

The subject matter set forth in independent claim 30 relates to a system for providing beauty advice. The system comprises a memory (Fig. 8, 806; p. 16, l. 1 to p. 17, l. 4) including a program that obtains personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19), determines local information based on the demographic information (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10), generates at least one recommendation for use of at least one cosmetic product based on at least one of the personal information and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17), and presents the at least one recommendation (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21); and a processor that runs the program (Fig. 8, 802; p. 14, ll. 5-9; p. 15, l. 3 to p. 17, l. 13).

**E. Independent Claim 31**

The subject matter set forth in independent claim 31 relates to a computer-readable medium (Fig. 8, 806, 820; p. 16, l. 13 to p. 17, l. 4) containing instructions for causing a computer to perform a method for providing beauty advice, the method comprising obtaining personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p.

37, l. 10 to p. 38, l. 19); determining local information based on the demographic information (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); generating at least one recommendation for use of at least one cosmetic product based on at least one of the personal information and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17); and presenting the at least one recommendation (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21).

**F. Independent Claim 32**

The subject matter set forth in independent claim 32 relates to a method for providing beauty advice. The method comprises maintaining a plurality of categories, each category being defined by at least one personal characteristic (p. 23, l. 5 to p. 24, l. 9); obtaining information identifying a geographic area where beauty advice is to be dispensed (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19); obtaining, by a computer system, local information about the geographic area, the local information at least including a weather forecast for the geographic area (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); generating, by the computer system, a plurality of differing cosmetic product usage recommendations, each recommendation being a function of the local information and at least one of the plurality of categories (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17; p. 23, l. 5 to p. 24, l. 9); and presenting the recommendations (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21; p. 23, l. 5 to p. 24, l. 9).

### **G. Independent Claim 41**

The subject matter set forth in independent claim 41 relates to a method for providing beauty advice. The method comprises obtaining, by a computer system, local information about a geographic area by manipulating received demographic data (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on the information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17); and providing at least one entity in the geographic area with the recommendation (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21).

### **H. Independent Claim 43**

The subject matter set forth in independent claim 43 relates to a method for providing beauty advice. The method comprises obtaining, by a computer system, personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19); determining local information based on the demographic information (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); generating, by the computer system, at least one cosmetic analysis based on at least one of the personal information and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17); and presenting the at least one cosmetic analysis (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21).

**I. Independent Claim 49**

The subject matter set forth in independent claim 49 relates to a method for providing beauty advice. The method comprises obtaining, by a computer system, personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject (Fig. 2, 202; Fig. 3; Fig. 9; Fig. 10, 1002, 1004; p. 5, ll. 11-19; p. 6, l. 21 to p. 9, l. 3; p. 17, l. 14 to p. 20, l. 2; p. 37, l. 10 to p. 38, l. 19); determining local information based on the demographic information and historical information associated with the geographic area (Fig. 1; Fig. 2, 204; Fig. 4; Fig. 6; Fig. 10, 1011; p. 5, ll. 19-21; p. 9, ll. 4-15; p. 20, ll. 7-10); generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on at least one of the personal information and the local information (Fig. 1; Fig. 2, 206; Fig. 4; Fig. 6; Fig. 10, 1012; p. 5, l. 21 to p. 6, l. 3; p. 9, l. 16 to p. 11, l. 2; p. 20, ll. 11-17); and presenting the at least one recommendation (Fig. 1; Fig. 2, 208; Fig. 4; Fig. 6; Fig. 10, 1014; p. 5, l. 21 to p. 6, l. 3; p. 11, ll. 3-21; p. 20, ll. 18-21).

## VI. GROUNDS OF REJECTION

A. Claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 stand rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. *Final Office Action* at 2.

B. Claims 25 and 26 stand rejected under 35 U.S.C. § 102(a) based on WO 01/18674 ("*Maloney*"). *Id.* at 3, 4.

C. Claims 1–9, 11–13, 17, 18, 20–24, 27, 30–32, and 34–50 stand rejected under 35 U.S.C. § 103(a) based on *Maloney* and U.S. Patent No. 5,796,932 ("*Fox*"). *Id.* at 4–17; *Advisory Action*, 2 (June 15, 2009).

D. Claim 10 stands rejected under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and U.S. Patent Application Publication No. 2002/0082869 ("*Anderson*"). *Final Office Action* at 18.

E. Claims 14–16, 28, 29, and 33 stand rejected under 35 U.S.C. § 103(a) based on *Maloney*, *Fox*, and U.S. Patent Application Publication No. 2002/0059248 ("*Farchione*"). *Id.* at 18–20.

F. Claim 19 stands rejected under 35 U.S.C. § 103(a) based on *Maloney*, *Fox* and Official Notice. *Id.* at 20, 21.

## VII. ARGUMENT

### A. The Rejection Under 35 U.S.C. § 101 Should Be Reversed

#### 1. Claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50

##### a. The claims are tied to another statutory class and meet *Bilski*'s machine-or-transformation test.

In the *Final Office Action*, the Examiner stated that method claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 must either “(1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials),” to be patentable under 35 U.S.C. 101. *Final Office Action* at 2. The Examiner further stated that the claims pending at the time of the *Final Office Action* did not provide an “indication . . . that said recommendations[, as recited in the claims,] are generated **by the computer**.” *Id.* (emphasis added). In response, Appellants amended independent 1, 25, 32, 41, 43, and 49 to recite, *inter alia*, “generating, by [a] computer system . . . ,” per the Examiner’s suggestion. *Amendment After Final* at 13.

In the Advisory Action of June 15, 2009 (“*Advisory Action*”), the Examiner asserted that the amended claims “fail[ed to meet] the second branch of the machine-or-transformation test as described in *Bilski*.” *Advisory Action* at 2. *Bilski*’s machine-or-transformation test states that “an applicant may show that a process claim satisfies § 101 **either** by showing that his claim is tied to a particular machine [(the first branch)], **or** by showing that his claim transforms an article [(the second branch)].” *In re Bilski*, 545 F.3d 943, 962 (Fed. Cir. 2008) (emphasis added). Claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 satisfy the first branch of the machine-or-transformation test because they are tied to another statutory class (i.e., a computer system). A claim is required to satisfy only one branch of the machine-or-transformation test. Hence,



claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 are patentable under 35 U.S.C. § 101 regardless of whether they meet the second branch of the test.

Accordingly, for at least the above reasons, the rejection of claims 1–11, 13–16, 18–25, 32–39, 41, 43, 44, and 46–50 under 35 U.S.C. § 101 is without basis and should be reversed.

**B. The Rejection Under 35 U.S.C. § 102(a) Should Be Reversed**

**1. Claims 25 and 26**

- a. Testing for environmental information, as disclosed by *Maloney*, is not the same as and is not consistent with “accessing local information for the geographic area.”**

In order to properly anticipate a claimed invention under 35 U.S.C. § 102, each and every element of the claim at issue must be found, either expressly or under principles of inherency, in a single prior art reference. Further, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim[s].” See M.P.E.P. § 2131. Finally, “[t]he elements must be arranged as required by the claim.” *Id.*

For claim 25 and its dependent claim 26, *Maloney* fails to teach at least “accessing local information for the geographic area,” as recited in claim 25 and required by claim 26. The Examiner asserts at page 3 of the *Final Office Action* that *Maloney* teaches the claimed “accessing” because it mentions delivering a test kit including environmental tests to identify external conditions, such as water hardness. *Maloney* at 10, lines 7–8, and 11, lines 11–12. However, testing for environmental information, as disclosed by *Maloney*, is not the same as and is not consistent with “accessing local information for the geographic area,” as recited in claim 25 (emphasis added).

By way of illustration, in one embodiment of the claimed invention, temperature information is accessed and provided to a user. See Fig. 1 of Application Drawings (local information of Springfield, VA is accessed to display a temperature of 40° F to 60° F). In contrast, *Maloney* discloses “the collection of profiling data about a consumer comprises providing the consumer a test kit. . . . Preferably, such a test kit would also comprise additional environmental tests (such as water hardness, water pH, etc.) which effect [sic] the performance of beauty care products.” See *Maloney* at 11, lines 6–12 (emphasis added). Hence, *Maloney* does not teach “accessing local information for the geographic area,” but merely discloses providing a test kit to a consumer to test for environmental information. Accordingly, the rejection of claims 25 and 26 under 35 U.S.C. § 102(a) should be reversed at least because *Maloney* fails to teach “accessing local information for the geographic area,” as required by claim 25 and its dependent claim 26.

**b. Providing a list of products and then customizing a product selected from the list does not constitute generating a list of products and then generating a recommendation for use of a product on that list.**

*Maloney* also fails to teach “generating, by [a]computer system, at least one recommendation for use of at least one cosmetic product on [a]list, the at least one recommendation being a function of the personal information of the subject and the local information,” as recited in claim 25 and required by dependent claim 26. In *Maloney*’s system, a consumer “is provided a list of one or more products . . . that correspond to the consumer profiling category.” *Maloney* at 7, lines 13–14. *Maloney* mentions that profiling data can include information obtained from environmental tests. *Id.* at 11, lines 6–23. *Maloney* also describes identifying, from the consumer, additional

profiling data “to customize a product selected from the list to meet the consumer’s physiological conditions and external conditions (such as water hardness, etc.).” *Id.* at 10, lines 6–8. As such, even if *Maloney*’s “environmental” information were consistent with the claimed “local information,” customizing a product based on such information does not constitute generating a list of products and then generating a recommendation for a product on that list, where the recommendation is a function of the personal information of the subject and the local information. That is, the mere act of customizing a product does not constitute generating a recommendation for use of a product on a list of products.

Indeed, generating a recommendation for use of a product on a list of products is separate from and unrelated to *Maloney*’s product customization. For instance, in the invention of claim 25, the recommendation for use of the product is generated regardless of whether a product is customized.

Further, claim 25 expressly recites generating a recommendation. Hence, a recommendation is something that is actually generated and may, for example, be presented as words on a website, stating “Here is what we recommend for you today based on the local information . . . ,” as shown in Fig. 1 of the present application, in one embodiment of the invention. *Maloney* fails to teach or suggest this. *Maloney* merely discloses customizing a product.

Accordingly, for at least the above reasons, the rejection of claims 25 and 26 under 35 U.S.C. § 102(a) as anticipated by *Maloney* should be reversed.

**C. The Rejection Under 35 U.S.C. § 103(a) Based On *Maloney* and *Fox* Should Be Reversed**

**1. Claims 1–9, 11–13, 17, 18, 20–24, 30, 31, and 48**

- a. Identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions, as disclosed in *Maloney*, and depicting the effect of weather variables on sales for a given product at a particular location for a particular time period, as disclosed in *Fox*, is not the same as and does not suggest generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information that is based on demographic information, as recited in claim 1.**

To establish *prima facie* obviousness under 35 U.S.C. § 103(a), several requirements must be met. First, the applied prior art, taken alone or in combination, must teach or suggest each and every element recited in the claims. See M.P.E.P. § 2143. Second, there must be some rationale that supports a combination or modification of the applied prior art in a manner that results in the claimed invention.

For independent claim 1 and its dependent claims 2–9, 11–13, 17, 18, 20–24, and 48, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information, which is determined based on demographic information, as recited in the claim.

In contrast, *Maloney* merely discloses identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions. *Maloney* at 10, lines 6–8. *Fox* merely discloses depicting the effect of weather variables on sales for a given product at a particular location for a particular time period. *Fox* at col. 16, lines 36–39. This may involve collecting data impacted by weather, such as demographical data. *Id.* at col. 9, lines 20–24. Neither *Maloney* nor

*Fox* teaches or suggests, separately or in combination, generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information, which is based on demographic information, as recited in claim 1.

For instance, even if *Maloney's* "environmental" information were consistent with the claimed "local information," providing a list of products based on such information does not constitute generating at least one recommendation for use of at least one cosmetic product, where the recommendation is a function of the personal information of the subject and the local information. The mere act of providing a list of products does not constitute generating a recommendation for use of at least one cosmetic product.

Also, even if *Maloney's* additional profiling data related to "external conditions" were consistent with the claimed "local information," customizing a product selected from a list to meet external conditions does not constitute generating at least one recommendation for use of at least one cosmetic product. Simply customizing a product is not the same as or consistent with generating a recommendation.

Indeed, generating a recommendation for use of at least one cosmetic product is separate from and unrelated to *Maloney's* product customization. For instance, in the invention of claim 1, the recommendation for use of the cosmetic product is generated regardless of whether a product is customized.

Further, claim 1 expressly recites generating a recommendation. Hence, a recommendation is something that is actually generated and may, for example, be presented as words on a website, stating "Here is what we recommend for you today

based on the local information . . . ,” as shown in Fig. 1 of the present application, in one embodiment of the invention. *Maloney* fails to teach or suggest this.

*Fox* does not cure the above deficiencies of *Maloney*. As mentioned above, *Fox* merely discloses depicting the effect of weather variables on sales for a given product at a particular location for a particular time period. *Fox* at col. 16, lines 36–39.

Additionally, the Examiner has provided no proper rationale to combine *Maloney* and *Fox* to yield the invention of claim 1. The Examiner asserts that it would have been obvious to modify *Maloney* with the disclosure of *Fox* because "it would advantageously allow [one] to utilize forecasted weather conditions (e.g., temperature and humidity) in planning of sales and advertising of personal care products, thereby maximiz[ing] profits." *Final Office Action* at 5. However, even if this were true, it would only yield the combination of identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions and depicting the effect of weather variables on sales for the product at a particular location for a particular time period. This is not the same as and does not suggest generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information, which is determined based on demographic information, as recited in claim 1. Accordingly, the Examiner has not provided any proper rationale to modify *Maloney* with *Fox* to yield a method that comprises the "generating" feature of claim 1.

Independent claims 30 and 31 have scopes different from the scope of claim 1, but each of claims 30 and 31 includes a recitation similar to the "generating" feature of claim 1. Consequently, the section 103(a) rejection of each of the independent claims 1, 30, and 31 should be reversed for at least similar results

**2. Claim 27**

- a. The Examiner has misinterpreted claim 27 and has not shown any teaching or suggestion of several limitations.**

For independent claim 27, the Examiner states that *Maloney* fails to “teach that said determined local information . . . is determined based on said demographic information” (emphasis added) and asserts that *Fox* cures these deficiencies. Specifically, the Examiner asserts that *Fox* discloses “determining local weather information based on . . . demographic (location) information.” *Final Office Action* at 5. Appellants note, however, that claim 27 does not recite that local information is determined based on demographic information. Instead, claim 27 recites, *inter alia*, “memory for storing a program that accesses local information for the geographic area.” As such, the Examiner has not presented a *prima facie* case demonstrating that *Maloney* and *Fox*, separately or in combination, teach or suggest “memory for storing personal information about a subject;” “memory for storing a program that accesses local information . . . and generates at least one recommendation for use of at least one cosmetic product, the at least one recommendation being a function of the personal information of the subject and the local information;” and “a processor that runs the program,” as recited in claim 27.

In *Maloney*’s system, a consumer “is provided a list of one or more products . . . that correspond to the consumer profiling category.” *Maloney* at 7, lines 13–14. *Maloney* mentions that profiling data can include information obtained from environmental tests. *Id.* at 11, lines 6–23. *Maloney* also describes identifying, from the consumer, additional profiling data “to customize a product selected from the list to meet the consumer’s physiological conditions and external conditions (such as water

hardness, etc.).” *Id.* at 10, lines 6–8. However, even if *Maloney’s* “environmental” information were consistent with the claimed “local information,” providing a list of products based on such information does not constitute generating a recommendation for use of at least one cosmetic product, where the recommendation is a function of the personal information of the subject and the local information. The mere act of providing a list of products does not constitute generating a recommendation for use of at least one cosmetic product.

Also, even if *Maloney’s* additional profiling data related to “external conditions” were consistent with the claimed “local information,” customizing a product selected from a list to meet external conditions does not constitute generating a recommendation for use of at least one cosmetic product. Simply customizing a product is not the same as or consistent with generating a recommendation.

Indeed, generating a recommendation for use of at least one cosmetic product is separate from and unrelated to *Maloney’s* product customization. For instance, in the invention of claim 27, the recommendation for use of the cosmetic product is generated regardless of whether a product is customized.

Further, claim 27 expressly recites memory for storing a program that generates at least one recommendation. Hence, a recommendation is something that is actually generated and may, for example, be presented as words on a website, stating “Here is what we recommend for you today based on the local information . . . ,” as shown in Fig. 1, in one embodiment of the invention. *Maloney* fails to teach or suggest this.

*Fox* does not cure the above deficiencies of *Maloney*. *Fox* merely discloses depicting the effect of weather variables on sales for a given product at a particular location for a particular time period. *Fox* at col. 16, lines 36–39. This may involve



collecting data impacted by weather, such as demographical data. *Id.* at col. 9, lines 20–24.

Further, the Examiner has provided no proper rationale to combine *Maloney* and *Fox* to yield the invention recited in claim 27. The Examiner asserts that it would have been obvious to modify *Maloney* with the disclosure of *Fox* because "it would advantageously allow [one] to utilize local actual and forecasted weather conditions (e.g., temperature and humidity) in planning of sales and advertising of personal care, thereby maximize[ing] profits." *Final Office Action* at 5. However, even if this were true, it would only yield the combination of identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions and depicting the effect of weather variables on sales for the product at a particular location for a particular time period. This is not the same as and does not suggest a memory for storing a program that generates at least one recommendation for use of at least one cosmetic product as a function of personal information and local information, as recited in claim 27. Accordingly, there would have been no legitimate reason to modify *Maloney* with *Fox* to yield a method that comprises generating at least one recommendation for use of at least one cosmetic product as a function of at least personal information and local information, as recited in claim 27.

### 3. Claims 32 and 34–40

- a. ***Maloney* and *Fox* do not disclose generating a plurality of differing cosmetic product usage recommendations, each recommendation being a function of the local information that includes a weather forecast, as recited in claim 32.**

For independent claim 32 and its dependent claims 34–40, and as affirmed by the Examiner on page 11 of the Office Action, *Maloney* does not disclose, *inter alia*,

obtaining local information including a weather forecast. Consequently, *Maloney* can not disclose generating a plurality of differing cosmetic product usage recommendations, each recommendation being a function of local information that includes a weather forecast, as recited in claim 32. Further, *Fox* does not teach or suggest this claimed "generating" feature. For instance, even if *Fox* were to disclose obtaining a weather forecast, *Fox* does not disclose generating a plurality of differing cosmetic product usage recommendations, each recommendation being a function of the local information that includes a weather forecast. Because the applied art does not teach or suggest each and every feature of claim 32, *prima facie* obviousness has not been established with respect to that claim.

The Examiner also asserts that it would have been obvious to modify *Maloney* with the disclosure of *Fox* because "it would advantageously allow [one] to utilize forecasted weather conditions (e.g., temperature and humidity) in planning of sales and advertising of personal care, thereby maximiz[ing] profits." *Final Office Action* at 12. However, even if this were true, it would only yield the combination of identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions and depicting the effect of weather variables on sales for the product at a particular location for a particular time period. This is not the same as generating a plurality of differing cosmetic product usage recommendations, each recommendation being a function of local information that includes a weather forecast, as recited in claim 32. Accordingly, *Maloney* and *Fox* fail to teach or suggest the invention in claim 32, and there is no proper rationale to combine *Maloney* and *Fox* to yield the invention in claim 32.

4. Claims 41 and 42

- a. **Providing a list of products based on data received from environmental tests provided to a consumer does not constitute generating at least one recommendation for use of at least one cosmetic product based on local information obtained by manipulating received demographic data, as recited in claim 41.**

For independent claim 41 and its dependent claim 42, neither *Maloney* nor *Fox*, nor any combination thereof, teaches or suggests “generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on [local] information [obtained by manipulating demographic data],” as recited in claim 41.

Contrary to the Examiner’s allegations on pages 13 and 14 of the *Final Office Action*, *Maloney* does not teach or suggest the claimed “generating” feature. *Maloney* describes providing a list of products corresponding to a consumer profiling category, and it mentions that profiling data can include information obtained from environmental tests. *Maloney* at 7, 9, 11. Even if *Maloney*’s environment test data were consistent with “local information” and *Maloney*’s list of products were consistent with “at least one recommendation,” *Maloney*’s disclosure of providing a list of products does not teach or suggest the claimed “generating” feature. That is, providing a list of products based on data received from environmental tests provided to a consumer does not constitute generating at least one recommendation for use of at least one cosmetic product based on local information obtained by manipulating received demographic data, as recited in claim 41.

*Maloney* also describes identifying, from the consumer, additional profiling data “to customize a product selected from the list to meet the consumer’s physiological conditions and external conditions (such as water hardness, etc.).” *Id.* at 10, lines 6–8.

This functionality does not teach or suggest the claimed "generating" feature.

Customizing a selected product to meet external conditions does not constitute generating at least one recommendation for use of at least one cosmetic product, much less generating a recommendation based on local information obtained by manipulating received demographic data, as recited in claim 41.

*Fox* does not teach or suggest the claimed "generating" feature and thus fails to cure *Maloney's* deficiencies. Accordingly, the applied references, taken alone or in combination, fail to teach or suggest each and every feature of claim 41.

Further, there is no proper rationale to combine *Maloney* and *Fox* to yield the invention in claim 41. The Examiner asserts that it would have been obvious to modify *Maloney* with the disclosure of *Fox* because "it would advantageously allow [one] to utilize local actual and forecasted weather conditions (e.g., temperature and humidity) in planning of sales and advertising of personal care, thereby maximiz[ing] profits." *Final Office Action* at 14. However, even if this were true, it would only yield the combination of identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions and depicting the effect of weather variables on sales for the product at a particular location for a particular time period. This is not the same as and does not suggest generating at least one recommendation for use of at least one cosmetic product, much less generating a recommendation based on local information obtained by manipulating received demographic data. Accordingly, there is no proper rationale to modify *Maloney* with *Fox* to yield a method that comprises generating at least one recommendation for use of at least one cosmetic product based on local information obtained by manipulating received demographic data, as claimed in claim 41.

**5. Claims 43–47**

- a. Providing a list of consumer services or goods does not constitute generating at least one cosmetic analysis, as recited in claim 43.**

For independent claim 43 and its dependent claims 44–47, neither *Maloney* nor *Fox*, nor any combination thereof, teaches or suggests, *inter alia*, generating at least one cosmetic analysis based on at least one of personal information and local information, as recited in claim 43. *Maloney*'s list of products could include "consumer services (such as film development)" or "consumer goods (such as beauty care products, clothing, electronics, etc.)." *Maloney* at 7, lines 14–17. Providing a list of consumer services or goods, however, does not constitute generating at least one cosmetic analysis, as recited in claim 43. Further, *Fox* does not appear to teach or suggest "generating at least one cosmetic analysis," as claimed, and thus fails to cure *Maloney*'s deficiencies.

The Examiner asserts that it would have been obvious to modify *Maloney* with the disclosure of *Fox* because "it would advantageously allow [one] to utilize local actual and historical weather conditions (e.g., temperature and humidity) in planning of sales and advertising of personal care, thereby maximiz[ing] profits." *Final Office Action* at 15, 16. However, even if this were true, it would only yield the combination of identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions and depicting the effect of weather variables on sales for a given product at a particular location for a particular time period. This is not the same as generating at least one cosmetic analysis based on at least one of personal information and local information, as recited in claim 43. Accordingly, there is no proper rationale to modify *Maloney* with *Fox* to yield the invention recited in claim 43.

6. Claims 49 and 50

- a. Neither *Maloney* nor *Fox*, nor any combination thereof, teaches or suggests, *inter alia*, generating at least one recommendation for use of at least one cosmetic product based on at least one of personal information, which includes demographic information reflecting a geographic area location of a subject, and local information, which is based on demographic information and historical information associated with a geographic area.

For independent claim 49 and its dependent claim 50, neither *Maloney* nor *Fox*, nor any combination thereof, teaches or suggests, *inter alia*, generating at least one recommendation for use of at least one cosmetic product based on at least one of personal information, which includes demographic information reflecting a geographic area location of a subject, and a local information, which is based on demographic information and historical information associated with the geographic area, as recited in claim 49. The Examiner asserts that it would have been obvious to modify *Maloney* with the disclosure of *Fox* because "it would advantageously allow [one] to utilize local actual and historical weather conditions (e.g., temperature and humidity) in planning of sales and advertising of personal care, thereby maximiz[ing] profits." *Final Office Action* at 17. However, even if this were true, it would only yield the combination of identifying consumer profile data to customize a selected product to meet the consumer's physiological and environmental conditions and depicting the effect of weather variables on sales for a given product at a particular location for a particular time period. This is not the same as generating at least one recommendation for use of at least one cosmetic product based on at least one of personal information, which includes demographic information reflecting a geographic area location of a subject, and local information, which is based on demographic information and historical information

associated with the geographic area, as recited in claim 49. Accordingly, there is no proper rationale to modify *Maloney* with *Fox* to yield the invention recited in claim 49.

**D. The Rejection Under 35 U.S.C. § 103(a) Based On *Maloney*, *Fox*, and *Anderson* Should Be Reversed**

**1. Claim 10**

- a. **The Examiner's allegation that the alleged modification "would advantageously allow [a determination and exclusion of] certain beauty product ingredients . . ." is not properly supported and does not establish that it would have been obvious to modify *Maloney* and *Fox* with *Anderson* in a manner resulting in Appellants' claimed combination.**

Claim 10 depends upon claim 1 and includes all limitations recited in claim 1. As discussed above for claim 1, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, at least generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information that is based on demographic information, as recited in the claim. *Anderson* fails to cure the deficiencies of *Maloney* and *Fox*. *Anderson* merely discloses a method for providing and updating customized health care information based on an individual's genome. *Anderson*, Abstract. The method might include obtaining the personal data of the individual. *Anderson* at 2, ¶ [0016]. This does not teach or suggest, separately or in combination with *Maloney* and *Fox*, generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information that is based on demographic information.

Further, the Examiner asserts that one of ordinary skill in the art would have modified *Maloney* and *Fox* with the disclosure of *Anderson* "because it would advantageously allow [a determination and exclusion of] certain beauty product ingredients which may cause negative health conditions or even diseases to which the

consumer may have a predisposition.” *Final Office Action* at 18. Appellants first note that the requisite rationale for combining *Maloney* and *Fox* is lacking for at least the reasons presented above in connection with claim 1. Secondly, the Examiner’s allegation that the alleged modification “would advantageously allow [a determination and exclusion of] certain beauty product ingredients . . .” is not properly supported and does not establish that it would have been obvious to modify *Maloney* in a manner resulting in Appellants’ claimed combination. For example, the Examiner pointed to no mention in *Maloney*, *Fox*, or *Anderson* regarding excluding beauty product ingredients based on negative health conditions or predispositions.

**E. The Rejection Under 35 U.S.C. § 103(a) Based On *Maloney*, *Fox*, and *Farchione* Should Be Reversed**

**1. Claims 14–16, 28, 29, and 33**

**a. *Farchione* merely discloses a method for selecting fashion information for an individual and fails to cure the deficiencies of *Maloney* and *Fox*.**

Claims 14–16, 28, 29, and 33 depend upon one of claims 1, 27, and 32, and include all limitations recited in their base claims, respectively. As discussed above for claim 1, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, at least generating at least one recommendation for use of at least one cosmetic product based on at least personal information and local information that is based on demographic information, as recited in the claim. For claim 27, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, a memory for storing a program that generates at least one recommendation for use of at least one cosmetic product based on at least personal information and local information. For claim 32, *Maloney* and *Fox* fail to teach or suggest, separately or in combination, generating a plurality of differing cosmetic product usage recommendations, each recommendation being a function of local



information that includes the weather forecast. *Farchione* fails to cure these deficiencies of *Maloney* and *Fox*. *Farchione* merely discloses a method for selecting fashion information for an individual. *Farchione*, Abstract. *Farchione*'s method is directed towards training sales agents in product knowledge and application as well as providing an individual a personal analysis and review of the combinations of cosmetic colors and clothing colors that are most appropriate for the individual based on skin color, hair color, eye color, body shape and body proportion. *Id.* at 1, ¶ [0003].

Further, the Examiner asserts that a skilled artisan would have modified *Maloney* and *Fox* with the disclosure of *Farchione* because "it would advantageously allow to provide customers with a product most suitable for customer's physical characteristics." *Final Office Action* at 19. Appellants first note that the requisite rationale for combining *Maloney* and *Fox* is lacking for at least the reasons presented above in connection with claims 1, 27, and 32. Secondly, *Farchione* fails to cure the lack of basis for combining *Maloney* and *Fox*.

**F. The Rejection Under 35 U.S.C. § 103(a) Based On *Maloney, Fox*, and Official Notice Should Be Reversed**

**1. Claim 19**

- a. The Official Notice rejection is improper because the Office Action fails to establish that the claimed features are well-known or common knowledge in the art, and capable of instant and unquestionable demonstration as being well-known.**

An Official Notice rejection is improper unless the facts asserted are well-known or common knowledge in the art, and capable of instant and unquestionable demonstration as being well-known. M.P.E.P. § 2144.03. The features recited in claim 19 were not unquestionably well-known and the Office Action has failed to demonstrate the contrary. Stating that “it is well known that . . . a lot of consumers have a habit to use cosmetic product[s] every day” does not establish that the “suggesting” feature of claim 19 was unquestionably well-known. *Final Office Action* at 19. Even if it were well known that “a lot of consumers have a habit to use cosmetic product[s] every day,” this subject matter does not constitute “suggesting that the subject maintain a stock of the plurality of cosmetic products,” as recited in claim 19 (emphasis added).

M.P.E.P. § 2144.03 makes clear, with regard to Official Notice, that “[t]he standard of review applied to findings of fact is the “substantial evidence” standard under the Administrative Procedure Act (APA)” (citations omitted). M.P.E.P. § 2144.03 points out that “an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support” (citations omitted).

Further, M.P.E.P. § 2144.03(B) states that “if Official Notice is taken of a fact, unsupported by documentary evidence, the technical line of reasoning underlying a

decision to take such notice must be clear and unmistakable.” Specifically, M.P.E.P.

§ 2144.03(B) makes clear that:

[If] . . . official notice has been taken of a fact that is asserted to be "common knowledge" without specific reliance on documentary evidence . . . , the basis for such reasoning must be set forth explicitly. The examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge. . . The applicant should be presented with the explicit basis on which the examiner regards the matter as subject to official notice . . . . (internal citations omitted).

The Office Action fails to provide substantial evidence on the record to support the taking of Official Notice. The Examiner merely makes a conclusory statement that certain subject matter was well-known, without supporting documentary evidence and without a clear and unmistakable technical line of reasoning supporting a decision to take the Official Notice.

Additionally, *prima facie* obviousness has not been established with respect to claim 19 at least because the requisite rationale to modify *Maloney* in view of *Fox* and Official Notice is lacking. The requisite rationale to modify *Maloney* in a manner resulting in the invention defined by claim 19 is lacking for at least the reasons presented above in connection with claim 1, upon which claim 19 depends.

Finally, as noted above, M.P.E.P. § 2141.02 makes clear that “[i]n determining the differences between the prior art and the claims, the question under 35 U.S.C. § 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious (internal citations omitted). Even if it were obvious or well known that “a lot of consumers have a habit to use cosmetic product[s] every day,” the Examiner failed to establish that

claim 19 as a whole, including the “suggesting” feature would have been obvious. For at least the foregoing reasons, the Examiner failed to meet the burden of supporting a *prima facie* conclusion of obviousness.

**G. Conclusion**

For the reasons given above, all of the claim rejections applied to pending claims 1–50 should be reversed.

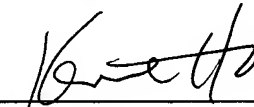
To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this Appeal Brief, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: October 14, 2009

By: \_\_\_\_\_

  
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## VIII. CLAIMS APPENDIX

1. (Previously presented) A method for providing beauty advice, the method comprising:

obtaining, by a computer system, personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject;

determining local information based on the demographic information;

generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on at least the personal information and the local information; and

presenting the at least one recommendation.

2. (Original) The method of claim 1, wherein the local information includes a weather forecast.

3. (Original) The method of claim 1, wherein the local information includes data on cosmetic usage of others located in the geographic area of the subject.

4. (Original) The method of claim 1, wherein the local information includes air quality data for the geographic area of the subject.

5. (Original) The method of claim 1, wherein the local information includes climate data for the geographic area of the subject.

6. (Original) The method of claim 1, wherein the local information includes ecological data for the geographic area of the subject.

7. (Original) The method of claim 1, wherein the personal information further includes at least one of an image, physical characteristics information, lifestyle

information, environmental information, nutritional information, medical history information, dietary supplement usage information, and family history information.

8. (Original) The method of claim 7, wherein the lifestyle information includes at least one of fashion preferences, clothing color preferences, and cosmetic preferences.

9. (Original) The method of claim 7, wherein the physical characteristics information includes at least one of age, a skin condition, skin tone, a propensity to tan, hair color, and facial feature characteristics.

10. (Original) The method of claim 7, wherein the family history information includes historical physical characteristics information about relatives of the subject.

11. (Original) The method of claim 1, wherein the recommendation is based on a combination of physical characteristics information about the subject, climate data for the geographic area of the subject, and at least one of fashion and color preferences of the subject.

12. (Original) The method of claim 1, further comprising receiving over a network, at a site remote from the subject, the personal information about the subject, and transmitting the recommendation to the subject over the network.

13. (Original) The method of claim 1, further comprising receiving variable preference information from the subject, and wherein the generated recommendation is a function of physical characteristics information, the local information, and the variable preference information.

14. (Original) The method of claim 13, wherein the variable preference information includes an identification of clothing that the subject intends to wear, and

wherein the recommendation contains a suggestion to use at least one product complementary to the identified clothing.

15. (Original) The method of claim 14, wherein the identification of clothing is a color of clothing that the subject intends to wear.

16. (Original) The method of claim 14, wherein the product is a cosmetic product for adding color to a face of the subject.

17. (Original) The method of claim 1, implemented over a network having an subject-accessible node, and wherein the method further comprises prompting the subject to seek cosmetic advice by accessing the node immediately prior to a time when the subject intends to apply a cosmetic product.

18. (Original) The method of claim 17, wherein the time immediately prior is one of an evening before or a day of intended cosmetic application.

19. (Original) The method of claim 1, further including notifying the subject of a plurality of cosmetic products from which the recommendations will be generated, and suggesting that the subject maintain a stock of the plurality of cosmetic products.

20. (Original) The method of claim 1, further comprising receiving from the subject an identification of products at the subject's immediate disposal.

21. (Original) The method of claim 7, wherein the physical characteristics information includes at least one of color, tone, texture, elasticity, oiliness, and pH of at least one of the subject's hair and skin.

22. (Original) The method of claim 1, further comprising receiving a request from the subject for beauty advice.



23. (Original) The method of claim 22, wherein the at least one recommendation is generated in response to the request.

24. (Original) The method of claim 1, wherein the recommendation is based on both the personal information and the local information.

25. (Previously presented) A method for providing beauty advice to a subject, the method comprising:

obtaining, by a computer system, personal information about the subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject;

generating a list of a plurality of cosmetic products for the subject;

receiving from the subject a request for cosmetic advice;

accessing local information for the geographic area; and

generating, by the computer system, at least one recommendation for use of at least one cosmetic product on the list, the at least one recommendation being a function of the personal information of the subject and the local information.

26. (Original) The method of claim 25, conducted at least in part in a network environment, wherein receiving the request occurs via a network and in at least one location remote from a location of the subject.

27. (Previously presented) A system for providing beauty advice, the system comprising:

memory for storing personal information about a subject, the personal information including at least demographic information about the subject, the demographic information including a geographic area location of the subject;

memory for storing a program that accesses local information for the geographic area and generates at least one recommendation for use of at least one cosmetic product, the at least one recommendation being a function of the personal information of the subject and the local information; and

a processor that runs the program.

28. (Original) The system of claim 27, wherein the processor is also configured to generate at least one suggestion for clothing based on at least the local information.

29. (Original) The system of claim 27, wherein the at least one cosmetic product is chosen from makeup and hair products.

30. (Original) A system for providing beauty advice, the system comprising:  
a memory including a program that  
obtains personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject,  
determines local information based on the demographic information,  
generates at least one recommendation for use of at least one cosmetic product based on at least one of the personal information and the local information, and  
presents the at least one recommendation; and  
a processor that runs the program.

31. (Original) A computer-readable medium containing instructions for causing a computer to perform a method for providing beauty advice, the method comprising:

obtaining personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject;

determining local information based on the demographic information;

generating at least one recommendation for use of at least one cosmetic product based on at least one of the personal information and the local information; and

presenting the at least one recommendation.

32. (Previously presented) A method for providing beauty advice, the method comprising:

maintaining a plurality of categories, each category being defined by at least one personal characteristic;

obtaining information identifying a geographic area where beauty advice is to be dispensed;

obtaining, by a computer system, local information about the geographic area, the local information at least including a weather forecast for the geographic area;

generating, by the computer system, a plurality of differing cosmetic product usage recommendations, each recommendation being a function of the local information and at least one of the plurality of categories; and

presenting the recommendations.

33. (Original) The method of claim 32, wherein presenting includes presenting the recommendations to a beauty consultant.

34. (Original) The method of claim 32, wherein presenting includes organizing recommendations by category.

35. (Original) The method of claim 32, wherein the local information includes data on cosmetic usage of a plurality of individuals located in the geographic area.

36. (Original) The method of claim 32, wherein the at least one personal characteristic includes at least one of physical attributes, lifestyle preferences, fashion preferences, color preferences, cosmetic product preferences, nutritional preferences, medical history, dietary supplement usage, and family history.

37. (Original) The method of claim 36, wherein the physical attributes include at least one of age, skin condition, skin tone, propensity to tan, hair color, and facial feature characteristics.

38. (Original) The method of claim 32, wherein the local information includes at least one of air quality data, temperature data, precipitation data, humidity data, wind data, ultra-violet radiation data, ecological data, and other climate information.

39. (Original) The method of claim 32, further comprising receiving variable preference information about a subject to receive beauty advice, and wherein the at least one generated recommendation is a function of physical characteristics information, the local condition information, and the variable preference information.

40. (Original) The method of claim 32 conducted at least in part in a network environment, wherein obtaining information identifying the geographic area and obtaining the local information occur via a network and in at least one location remote from the geographic area, and wherein presenting the recommendations occurs via the network.

41. (Previously presented) A method for providing beauty advice, the method comprising:

obtaining, by a computer system, local information about a geographic area by manipulating received demographic data;

generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on the information; and

providing at least one entity in the geographic area with the recommendation.

42. (Original) The method of claim 41 conducted at least in part in a network environment, wherein obtaining information occurs via a network and in at least one location remote from the entity, and wherein during providing, the recommendations are provided to the entity over the network.

43. (Previously presented) A method for providing beauty advice, the method comprising:

obtaining, by a computer system, personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject;

determining local information based on the demographic information;

generating, by the computer system, at least one cosmetic analysis based on at least one of the personal information and the local information; and

presenting the at least one cosmetic analysis.

44. (Original) The method of claim 43, wherein the cosmetic analysis includes at least one of a recommendation for use of a cosmetic product, a recommendation for a diagnosis to be performed on the subject, a recommendation to follow a beauty treatment regimen, and a prognosis for an external body condition of the subject.

45. (Original) The method of claim 43 conducted, at least in part in a network environment, wherein obtaining personal information occurs via a network and in at least one location remote from a location of the subject, and wherein during presenting, the at least one cosmetic analysis is presented to the subject via the network.

46. (Original) The method of claim 43, wherein the local information reflects at least one of a local weather condition, a local air quality condition, and a local ultraviolet level.

47. (Original) The method of claim 43, wherein the at least one cosmetic analysis is based on both the personal information and the local information.

48. (Previously presented) The method of claim 1, wherein determining local information based on the demographic information comprises determining the local information by manipulating the demographic information.

49. (Previously presented) A method for providing beauty advice, the method comprising:

obtaining, by a computer system, personal information about a subject, the personal information including at least demographic information about the subject, the demographic information reflecting a geographic area location of the subject;

determining local information based on the demographic information and historical information associated with the geographic area;

generating, by the computer system, at least one recommendation for use of at least one cosmetic product based on at least one of the personal information and the local information; and

presenting the at least one recommendation.

50. (Previously presented) The method of claim 49, wherein determining local information comprises projecting local information based on the demographic information and the historical information associated with the geographic area.

**IX. EVIDENCE APPENDIX**

None.



**X. RELATED PROCEEDINGS APPENDIX**

None.